

	<h2>Community Leadership Committee</h2> <h3>21 June 2017</h3>
<p style="text-align: right;">Title</p>	<p>Community Right to Bid nomination: Ye Olde Monken Holt public house, 193 High Street, EN5 5SU</p>
<p style="text-align: right;">Report of</p>	<p>Stephen Evans, Assistant Chief Executive</p>
<p style="text-align: right;">Wards</p>	<p>High Barnet</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Urgent</p>	<p>Yes There is an 8 week statutory timescale to respond to Community Right to Bid nominations, starting from the date the Council receives the nomination. The nomination for the Ye Olde Monken Holt was received on 4th May 2017, making the deadline for a decision 29th June 2017.</p>
<p style="text-align: right;">Key</p>	<p>No</p>
<p style="text-align: right;">Enclosures</p>	<p>Plan of nominated asset</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Sophie Leedham, Strategy Officer, Community Participation and Engagement (sophie.leedham@barnet.gov.uk, 020 8359 7313)</p>

<h2>Summary</h2>
<p>The Localism Act 2011 introduced the Community Right to Bid (“CRTB”), a new right for local people to nominate buildings or pieces of land that they believe contribute to the social interests or wellbeing of their local communities to be listed on a register of Assets of Community Value (“ACVs”), managed by the local authority.</p>
<p>Where land is listed as an ACV, if the owner subsequently wishes to make a ‘relevant disposal’ (to sell the asset or grant a qualifying lease, which is one originally granted for a 25 year term) they must notify the local authority. This triggers an interim moratorium period of six weeks, during which time the nominating group, or any other community group can register interest in putting together a bid for the asset. If a community group registers interest, this triggers a full moratorium period of six months, during which time the owner</p>

may not make a relevant disposal of the asset, except to a community group. The moratorium is intended to allow community groups the time to develop a proposal and raise the required capital to bid for the asset when it comes onto the open market at the end of that period. The owner is under no obligation to accept a bid from a community group and can sell the property to whomever they wish once the six month moratorium is over. However, if the asset is not disposed of within 18 months from the commencement of the interim moratorium period, then the moratorium period is re-triggered (12 months from the end date of the first moratorium period).

In order to decide whether to list an asset as an ACV, the Act provides that the Council must consider whether the nomination has come from a group eligible to make a nomination, as defined in the legislation; and whether the current or recent main use of the nominated asset contributes to the social wellbeing or social interests (defined as 'cultural, recreational or sporting interests') of the local community, and whether it is realistic to think it will continue to do so in the next 5 years (whether or not the use remains exactly the same).

A nomination has been received to list the **Ye Olde Monken Holt public house, 193 High Street, EN5 5SU** (High Barnet ward) as an Asset of Community Value. **This report recommends that the asset is listed as an Asset of Community Value.**

The nomination is an eligible nomination. The Localism Act 2011 provides that in order to be eligible, the nomination must be made by a community organisation or group which qualifies under the Act to make the nomination. The Ye Olde Monken Holt Community Support Group, which nominated the Ye Olde Monken Holt, is an unincorporated body whose members include at least 21 individuals, whom appear on the electoral roll for either Barnet or a neighbouring borough (a qualifying status under the Act).

The nomination describes uses that further social interest, such as acting as the meeting place for local the Town Team and Residents Association, hosting and supporting charity events, promoting local talent through live music opportunities and providing free wifi. Pubs exist to provide for the recreational interests of the community, so it is reasonable to think that **the main use of the assets furthers the social wellbeing and social interests of the community.** There are currently no known plans to close the pub, and the nomination states it is popular locally and has regular customers, suggesting continued viability and demand. **It is realistic to think that use of the asset will continue to contribute to the social wellbeing and social interests of the community.**

Evidence was requested to verify the above mentioned activities but has not yet been provided by the nominating group. However, the public house's website and social media presence provide evidence that regular quiz nights, live music, a personal development book club and meet ups for local sports teams including the Monken Hadley cricket club take place at the pub. This evidence is appended to the report herein. Taken together, it was deemed that there is sufficient evidence to meet the statutory requirements as the main use of the asset contributes to the social interests or wellbeing of the local community.

Recommendations

That the Committee agree that the Ye Olde Monken Pub should be listed as an Asset of Community Value and added to the Council's Register, based on the statutory criteria set out in the Localism Act 2011, and the evidence provided in the nomination.

1. WHY THIS REPORT IS NEEDED

The Community Right to Bid

- 1.1 The Localism Act 2011 ("the Act") introduced a new right for groups of local people to nominate buildings or pieces of land which contribute to the 'social wellbeing or social interests' of their local communities to be listed on a register of Assets of Community Value ("ACVs"), which the local authority is required to maintain.
- 1.2 Nominations can apply to public or private assets, although certain kinds of asset (such as private homes) are exempt.
- 1.3 The Act provides that in order to decide whether to list a nominated asset as an ACV, the Council must consider whether the main use of the asset contributes to the social interests or wellbeing of the local community, and whether it is realistic to think it will continue to do this (whether or not the use remains exactly the same).
- 1.4 The Act defines social interests as 'including cultural, recreational, and sporting interests'. There is no further definition.
- 1.5 The Act provides that land in a local authority's area which is of community value may be included by a local authority in its register of ACVs only:
 - (a) in response to a community nomination, or
 - (b) where permitted by regulations made by the appropriate authority.
- 1.6 In England a community nomination can be made by a parish council or by a voluntary or community body with a local connection as defined in the Assets of Community Value Regulations 2012 ("the Regulations").
- 1.7 The statutory tests which the Council must apply when assessing a nomination are:
 - (i) Its main use furthers the social wellbeing or cultural, recreational or sporting interests of the local community; and it is realistic to think that the main use will continue to further the social wellbeing or cultural, recreational or sporting interests of the local community; or,
 - (ii) Where the main use does not currently have such a community benefit, in the "recent past" it did have and the Council considers it likely that it would be able to have such a use in the next 5 years.

(iii) That the nomination is a community nomination made by a community or voluntary organisation or group which qualifies under the Act to make the nomination.

- 1.8 Where either criterion i) or ii), and criterion iii) of the above is met, the Council must list the land or building on its register of Assets of Community Value.
- 1.9 If the Council lists the nominated land, a restriction is placed on the land if the land is registered. If the owner wishes to sell the asset or to lease it for more than 25 years, then the owner is legally obliged to notify the Council (if the asset is not owned by the Council). The Council will then inform the nominating group which signals an interim moratorium period of six weeks where the nominating group or any other eligible community group may register an interest in bidding for the asset. If during the six weeks a local community group expresses an interest in taking on the asset and continuing its community use, then a full moratorium is triggered and the sale is delayed for a six month period. This is designed to give the community group the opportunity to raise funds to try to purchase the asset at market value.
- 1.10 The owner is under no obligation to accept the community group's bid over any other bid. There is no 'right of first refusal' for the community group, only the right to request the moratorium. The owner is free to work with other potential buyers and stimulate the wider market during the moratorium and at the end of the moratorium period can sell to any party. However, if the asset is not disposed of within 18 months from the commencement of the interim moratorium period, then the moratorium period is re-triggered (12 months from the end date of the first moratorium period).
- 1.11 Since the introduction of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 much greater weight is given in planning to public houses which are registered or nominated as an ACV. Any change of use or re-development of an ACV registered or nominated public house requires planning permission. Previously such changes could be made without requiring the consent of the local planning authority. While not offering explicit protection for pubs, the Barnet Local Plan Policies CS10 and DM13 support the protection of community meeting places. The ACV listing will provide greater protection for retention as a public house.
- 1.12 If the pub is listed as an ACV it may become a material consideration in any future planning decisions – this and the weight given to such considerations is at the discretion of the Council. Under Para 70 of the National Planning Policy Framework, planners should already consider pubs as community facilities. Para 70 states: 'To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, **public houses** and places of worship) and other local services to enhance the sustainability of communities and residential environments'.

- 1.13 If an asset is listed as an ACV, the asset owner has the right to appeal against this, initially through the Council's internal review process and subsequently through an appeal to the First Tier Tribunal.
- 1.14 If an asset is not listed, the Council must communicate its reasoning to the nominating group but the nominating group has no right to appeal against the decision.

Recent policy developments

- 1.15 The Government is currently reviewing the Right. The review is on-going and there is no closing date as it is not a formal consultation. The Council has contributed to the review as an interested party.
- 1.16 A Communities and Local Government Select Committee report published on 3 February 2015 recommended that the review of the Right should increase the moratorium on sale or lease of an ACV to nine months, as well as creating statutory obligations for ACV status to be considered as a material consideration in planning matters. These recommendations have not yet been accepted by the Government but will feed into the review.

Nomination of the Ye Olde Monken Holt

- 1.17 The Ye Olde Monken Holt Community Group has nominated the Ye Olde Monken Holt, 193 High Street, EN5 5SU. The enclosed plan sets out the boundaries of the nominated asset.
- 1.18 The Ye Olde Monken Holt is currently owned by Greene King Retailing Limited and tenanted to the current landlord. Both have been notified that this nomination is currently under consideration.
- 1.19 The nominating group considers that the main current use of the land furthers social wellbeing and interests of the community on the grounds that:
 - It is the social centre of the local community, comprising Hadley Green and the surrounding area.
 - It is open to the public regardless of religion, ethnic group, social status, political belief, gender or age (if suitably accompanied).
 - Facilities to make the community as comfortable as possible, whilst attracting newcomers, include baby changing, step-free access, wi-fi, dog's drinking bowl, smoking shelter, and a delicious fresh food menu.
 - Numerous meetings of all kinds, whether between members of Chipping Barnet Town Team to decide this application, or members of the Hadley Residents Association's Hadley Green Clearance team after their labours on Hadley Green, or where, in 2002, the London and South-East branch of the Battlefields Trust was inaugurated, and which has met there every year since then.
 - In recent years, regular weekly line-ups of musicians and bands have taken place, often from the surrounding area, providing a stage for budding talent to perform in front of an appreciative local community.

- Regular Thursday quiz evenings where teams of up to five compete in a friendly atmosphere.
- It arranges for collections for charities, hosts charitable events
- The Pub has also been supportive of Jazz-on-the-Green which is a very popular local community Jazz picnic held on the Green every July, the pub provides refreshments and toilet facilities for this event. Likewise it supports the Barnet Christmas Fayre in early December each year
- Going north, it is the last pub in Barnet, the next one being the Duke of York 1.76 miles away. A community the size of Chipping Barnet should have a variety of pubs for locals to choose from, and Ye Olde Monken Holt forms part of that essential mix. In recent years, 3 out of the 4 pubs in the Hadley Green and Hadley Highstone area have been sold for re-development, viz The Two Brewers, The King William IV, and the Windmill, leaving Ye Olde Monken Holt as the sole pub left at that end of town. The risk to the community is therefore the loss of Ye Olde Monken Holt. The greatest threat to Ye Olde Monken Holt's continuance arises from the voracious appetite for residential development in the Chipping Barnet area, which has seen a number of pubs lost to their communities and which this application is intended to help prevent.
- The public house's website and social media presence provide evidence that regular quiz nights, live music, a personal development book club and meet ups for local sports teams including the Monken Hadley cricket club take place at the pub.

1.20 There are no known plans to close the pub.

Application of statutory tests as set out in the Localism Act 2011

Main use of asset furthers social wellbeing or social interests of community

- 1.21 The legislation sets a broad and loose definition of 'social wellbeing and social interests'. The activities listed at paragraph 1.19 are sufficient to demonstrate that a number of uses of the asset fall within the definition of 'cultural, recreational, and sporting interests'.
- 1.22 Use of the asset to contribute to the social wellbeing and social interests of the community may be considered the main rather than ancillary use because a pub by nature exists to provide for the cultural, recreational and sporting interests of the community and it may be assumed the activities listed at paragraph 1.19 are the main activities carried out on the premises.
- 1.23 There are no known plans to close the pub and evidence of continued demand and viability, which means it is realistic to think the main use of the asset will continue to further social wellbeing and social interest of the community.
- 1.24 Taken together, points 1.21-1.23 establish that criterion (i) of the statutory tests set out in paragraph 1.7 above have been met. The main use of the land does further the social wellbeing or social interests of the community and it is realistic to expect that it will continue to do so.

The nomination is eligible

- 1.25 The Ye Olde Monken Holt Community Group has made its nomination as an unincorporated group of over 21 members who are on the electoral register for Barnet.(a status which qualifies to make nominations under the Act).
- 1.26 The criteria also asks that an unincorporated group provides a copy of a Constitution/Articles of Association/Memorandum that states surplus is not distributed to members and most recent accounts. However, the Ye Olde Monken Holt group collects no subscriptions, has no monies of its own and therefore has no accounts or monies to distribute. As a result, this second part of the eligibility criteria is not relevant to the nominating group.
- 1.27 Criterion (i) of the statutory tests set out in paragraph 1.25 above has been met.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The nomination of the Ye Olde Monken Holt meets the statutory tests established by the Localism Act 2011 to be considered an Asset of Community Value. The recommendation is, therefore, that the Committee lists the Ye Olde Monken Holt as an Asset of Community Value.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Community Leadership Committee could decide not to list the Ye Old Monken Holt as an ACV, but on balance it is judged that the nomination provides sufficient evidence that the statutory criteria set out in the Localism Act 2011 have been met. If the Committee is in agreement with this judgment, the Council must list the nominated asset as an ACV.
- 3.2 An owner has the right to appeal if they feel that their asset has been wrongly listed.

4. POST DECISION IMPLEMENTATION

- 4.1 The Ye Olde Monken Holt will be recorded on the Register of Assets of Community Value as an ACV. Both the nominating group and the owner of the property will be informed, in writing, of the outcome.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Community Right to Bid process contributes to the 2015-2020 Corporate

Plan's objective to develop a new relationship with residents that enables them to be independent and resilient and to take on greater responsibility for their local areas by fulfilling one of the rights granted to local communities under the Localism Act 2011.

5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 The asset does not belong to the Council and there are no financial implications to this decision.

5.3 **Social Value**

5.3.1 There are no social value considerations as this decision does not relate to a service contract.

5.4 **Legal and Constitutional References**

5.4.1 The Localism Act 2011 obligates the Council to list assets nominated by local community groups as Assets of Community Value if these are deemed to pass the statutory tests set out in the Act.

5.4.2 Under the Council's Constitution (Responsibility for Functions – Annex A) the responsibilities of the Community Leadership Committee include:

- Grants to Voluntary Sector
- To maintain good community relations with Barnet's diverse communities ensuring that all communities have the opportunity to participate fully in the Borough's affairs.
- To receive nominations and determine applications for buildings / land to be listed as an Asset of Community Value (Community Right to Bid)
- To approve any non-statutory plan or strategy within the remit of the Committee that is not reserved to Full Council or Policy and Resources.

5.5 **Risk Management**

5.5.1 There are no risks associated with the decision to list the Ye Olde Monken Holt pub as an ACV.

5.6 **Equalities and Diversity**

5.6.1 No negative differential impact on people with any characteristic protected under the Equality Act 2010 has been identified with regard to this nomination.

5.6.2 Under section 149 of the Equality Act 2010, the council and all other organisations exercising public functions must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The relevant protected characteristics are age; disability; gender

reassignment; pregnancy and maternity; race, religion or belief; and sex and sexual orientation. The broad purpose of this duty is to integrate considerations of equality into daily business and keep them under review in decision making; the design of policies; and the delivery of services.

5.7 Consultation and Engagement

5.7.1 A draft amendment to the Council's Community Right to Bid policy was carried out between 11 February and 24 March 2014. The results of that consultation were set out in a report taken to the Community Leadership Committee on 25 June 2014 and the Council's guidance on the Community Right to Bid amended following agreement of that report.

5.7.2 More specifically, the nominating group has been engaged in dialogue as part of the process of administering the nomination, and given opportunities to submit evidence to support their claim.

5.8 Insight

5.8.1 No specific insight data has been used to inform the decision required.

6. BACKGROUND PAPERS

6.1 Community Right to Bid: Consultation and recent developments (Community Leadership Committee, 25 June 2014)
<http://barnet.moderngov.co.uk/documents/s15687/Community%20Right%20to%20Bid%20Report.pdf>.

Appendix 1 – Supporting evidence



Ye Olde Monken Holt

19 hrs · 🌐

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📍 193 High Street
EN5 5SU East Barnet, Barnet, United Kingdom

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🕒 Hours 12:00 - 00:00
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Ye Olde Monken Holt

10 June at 14:29 · 🌐

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📞 020 8449 4280

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C



Ye Olde Monken Holt

3 June at 11:51 · 🌐

Good luck to Monken Hadley Cricket Club today. We look forward to seeing you later.



📍 193 High Street
EN5 5SU East Barnet, Barnet, United Kingdom

☎ 020 8449 4280

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Ye Olde Monken Holt

7 June at 11:14 · 🌐

Personal Development **book** club , Barnet

Days ;Tuesday's (twice a month)

Date ; 20th June

4th July

18th July

1st August

Genre : Personal Development

Cost : Free

Venue : The Monk , Barnet High Street

Book; Think and Grow Rich (classic Edition)

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